

Example Findings of Fact for the Growth Management Act Periodic Update

Introduction

All cities and counties in Washington state are required to “review, and revise if necessary” (aka, update) their comprehensive plans and development regulations adopted under the state’s Growth Management Act (see RCW 36.70A.130). *(Counties, and the cities within them, whose GMA requirements are limited to critical areas and natural resource lands must update only those two items.)* A specific “legislative action” is required by each city and county to demonstrate the completion of this requirement.

This paper includes annotated examples of findings that could be included in the final ordinance or resolution adopted by a local government’s elected officials to complete this requirement. The topics are in no particular order of importance. *The annotations are included in italics for easy recognition.* These example findings are not required to be included in a local government’s ordinance or resolution, but are designed to provide examples of the topics that a city or county should consider addressing in its final GMA update legislative action. Each jurisdiction should consult with its legal counsel to create its final ordinance or resolution to fulfill the obligations of RCW 36.70A.130.

Public Participation Program

Local governments must establish a public participation program for their GMA update process under RCW 36.70A.130(2). The final legislative action for a jurisdiction’s GMA update should include findings that a public participation program was established and followed.

On (date), (name of jurisdiction) adopted (ordinance or resolution number, if applicable) establishing a public participation program in accordance with RCW 36.70A.130(2) that identified procedures and schedules for reviewing and, if needed, revising the comprehensive plan and development regulations.

(Name of jurisdiction) has followed its adopted public participation program, including (list or attach names and dates of all public workshops, surveys, comment periods, and other components of the public participation program).

Review of the Best Available Science

If the city or county GMA update includes revisions to its critical areas program to include the best available science as required by RCW 36.70A. 172, the final legislative action should document in its findings the sources of scientific information that were used, and how it was incorporated into the critical areas program.

General Critical Areas Findings

The Growth Management Act requires the adoption of development regulations that protect critical areas designated in accordance with RCW 36.70A.170. RCW 36.70A.172 requires local governments to give special consideration to the conservation and protection measures necessary to preserve or

enhance anadromous fisheries. Critical areas include: wetlands; areas with a critical recharging effect on aquifers used for potable water; frequently flooded areas; geologically hazardous areas; and fish and wildlife habitat conservation areas. Development may result in cumulative impacts to those functions and values of critical areas that contribute to and are necessary for a healthy natural environment and perceived quality of life. The development of residences, businesses, shopping areas and other structures, and the clearing of land for accommodation of livestock and for such development all have the potential of adversely and significantly impacting the functions and values of critical areas. The unwise development of resource lands or areas susceptible to natural hazards may lead to inefficient use of limited public resources, jeopardize environmental resource functions and values, subject persons and property to unsafe conditions, and affect the perceived quality of life. It is more costly to remedy the loss of critical area functions and values than to conserve and protect them from loss or degradation. In determining what critical areas are to be afforded a particular degree of protection, the [jurisdiction] has evaluated a wide range of the best science available with respect to the critical areas to make informed decisions that meet the intent of the Growth Management Act and that are also reflective of local needs.

The sources of this best available science that were evaluated and included in this ordinance are listed below: *[List sources of scientific information relied upon in the designation and protection of critical areas functions and values. See WAC 365-195-915 for criteria for including the best available science in developing policies and development regulations. This list should include inventory, survey, and assessment information, as well as research and management recommendations identified in synthesis documents.]*

Protection standards for one critical area often provide protection for one or more other critical areas. Critical areas may also be protected by other actions by the [jurisdiction], such as stormwater management standards, critical area restoration, and public education; and from other regulations, such as the Forest Practices Act, the Shoreline Management Act, and the State Environmental Policy Act. *[List the other programs and ordinances relied upon in achieving critical area protection.]* The U.S. Constitution prohibits the taking of private property without just compensation.

Wetlands

Wetlands and streams are environmentally sensitive and serve numerous natural functions and values. These functions include: wildlife and fisheries habitat; water quality protection; flood protection; shoreline stabilization; stream flow; and ground water recharge and discharge. In many situations, these functions cannot be adequately replicated or replaced.

The scientific literature supports in the inclusion of protective buffers from wetlands to provide sediment control and nutrient inputs to wetlands, and to protect important wetland functions. Wetlands are identified and rated according to the *Washington State Wetland Identification and Delineation Manual* and *Washington State Wetland Rating System* prepared by the Washington State Department of Ecology (Ecology). Appropriate wetland mitigation ratios – ratios of areas of wetland replacement and enhancement to that altered or destroyed – are established in *Wetland Mitigation Replacement Ratios: Defining Equivalency*, published by Ecology, 1992.

Critical Aquifer Recharge Areas

Potable water is an essential life-sustaining element. Much of [the region's] drinking water comes from ground water supplies. Once ground water is contaminated it is difficult, costly, and sometimes impossible to clean up. Preventing ground water contamination is necessary to avoid exorbitant costs, hardships, and potential physical harm to people. State rules (WAC 365-190-080) define wellhead protection areas, sole source aquifers, special protection areas, and other areas that are susceptible or vulnerable to ground water contamination as areas with a critical recharging effect on aquifers used for potable water (also referred to as critical aquifer recharge areas). *Guidance Document for Establishment of Critical Aquifer Recharge Area Ordinances*, by Ecology, 2000, includes scientific recommendations for protecting ground water, including limiting certain uses and the intensity of development in critical aquifer recharge areas.

Frequently Flooded Areas

Flood hazard areas are subject to periodic inundation that results in loss of life and property, health, and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare. These flood losses are caused by development in areas prone to inundation that increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to flood loss.

Floodplain and stream connectivity are major elements in maintaining healthy riparian habitat and off-channel habitats for the survival of fish species and conveyance of floodwaters. If river, floodplains, and other systems are not viewed holistically as biological, geomorphological units, this can lead to serious degradation of habitat and increase flood hazards, which in turn can contribute to listing of various fish species as threatened or endangered and result in extraordinary public expenditures for flood protection and relief. Frequently flooded areas, including the 100-year floodplain and the floodway, are commonly mapped on flood insurance maps, often known as Flood Insurance Rate Maps, or FIRMs.

Geologically Hazardous Areas

Geologically hazardous areas are subject to periodic geological events that result in loss of life and property, health, and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

Geologic hazards may be exacerbated by development and human activity in sensitive areas, and impacts resulting from geologic hazards may be reduced by limiting development and human activity within or adjacent to the geologic hazard.

Some geologic hazards may be intensified during periods of consistent or heavy rainfall that results in ground saturation or surface water drainage flows.

Fish and Wildlife Habitat Conservation Areas

Fish and wildlife habitat conservation areas perform many important physical and biological functions that benefit the [jurisdiction] and its residents, including but not limited to: maintaining species diversity and genetic diversity; providing opportunities for food, cover, nesting, breeding and movement for fish and wildlife; serving as areas for recreation, education and scientific study and aesthetic appreciation; helping to maintain air and water quality; controlling erosion; and providing neighborhood separation and visual diversity within urban areas. Wetlands and streams are environmentally sensitive and serve numerous natural functions and values. These functions include: wildlife and fisheries habitat; water quality protection; flood protection; shoreline stabilization; stream flow; and ground water recharge and discharge. In many situations these functions cannot be adequately replicated or replaced. The scientific literature supports in the inclusion of protective buffers from streams to provide sediment control, nutrient inputs to downstream waters, large woody debris, and other functions important to riparian areas. The Washington Department of Fish and Wildlife (WDFW) has prepared management recommendations for the preservation of priority habitat and species, which are based on the best available science, and include, in some instances, recommended protective buffer distances.

Kelp and eelgrass beds have been identified and mapped by the Washington State Department of Natural Resources (DNR) in some areas. Herring and smelt spawning times and locations are outlined in WAC 220-110-240 through 220-110-260. Salmonid and anadromous fish may be more impacted by development and human activity during some times than others. Such times are referred to as “fish windows,” which have been documented by WDFW. DNR has classified watercourses according to two stream-typing systems based on channel width, fish use, and perennial or intermittent status. WAC 365-190-080(5) grants [the jurisdiction] the flexibility to make decisions in the context of local circumstances, and specifically excuses local jurisdictions from being required to protect “all individuals of all species at all time.”

State Agency Notice

RCW 36.70A.106 requires local governments to provide notice to state agencies of their intent to adopt any amendments to GMA comprehensive plans or development regulations. This notice must be provided to CTED at least 60 days before the planned adoption of each amendment. For GMA updates, this notice should be provided before each amendment that is part of the update, and before the planned adoption of the final legislative action.

Notice of all amendments to the comprehensive plan and development regulations adopted to fulfill the requirements of RCW 36.70A.130 was sent to the Washington State Department of Community, Trade and Economic Development at least sixty days before the amendments were adopted, in accordance with RCW 36.70A.106.

Review and Revision of Natural Resource Land and Critical Areas Designations and Regulations Only (Jurisdictions Not Planning Under RCW 36.70A.040):

Counties, and the cities within them, that are not required to plan under RCW 36.70A.040 must review, and revise if necessary, only their GMA requirements under RCW 36.70A.170 and .060, which are critical areas and natural resource lands. All cities and counties should affirm this status in their findings.

RCW 36.70A.170 and .060 require (name of jurisdiction) to designate critical areas and natural resource lands and to adopt development regulations that protect critical areas. RCW 36.70A.130(1) requires (name of jurisdiction) to take legislative action to review its natural resource land and critical areas designations and its development regulations protecting critical areas, and to revise them if needed to comply with the requirements in Chapter 36.70A RCW. Under the schedule established in RCW 36.70A.130(4), the deadline for (name of jurisdiction) to comply with the update required by RCW 36.70A.130(1) is (December 1, 20__).

a. When Revisions Are Needed

If a complete review of the critical areas and natural resource lands provisions reveals a need to revise those provisions, the jurisdiction should develop findings that affirm the review was completed, describe the process used to complete the review and revisions, and state that its revised provisions comply with the GMA (RCW 36.70A).

On (date), (staff or name of consultant) prepared an analysis of critical areas and natural resource designations and the development regulations that protect critical areas currently in effect in (name of jurisdiction) for consistency with the requirements of Chapter 36.70A RCW. Based on this analysis, (staff or name of consultant) prepared proposed revisions it concluded are needed to comply with Chapter 36.70A RCW. On (date), (staff or name of consultant) forwarded its analysis and proposed revisions to the (name of jurisdiction) Planning Commission.

The (name of jurisdiction) Planning Commission reviewed the analysis and proposed revisions prepared by (staff or name of consultant) and held a public hearing on (date of hearing) to receive public comments on the analysis and proposed revisions. Based on its review of the requirements of Chapter 36.70A RCW, the analysis and proposed revisions prepared by (staff or name of consultant), and the public comments received, the Planning Commission (accepted the analysis and proposed revisions) OR (modified the analysis and proposed revisions to more fully comply with Chapter 36.70A RCW) and forwarded recommended findings on review and proposed revisions to the (legislative body) on (date).

The (legislative body) held a public hearing on (date of hearing) to receive public comments on the recommended findings on review and proposed revisions.

Based on its review of the requirements of Chapter 36.70A RCW, the analysis and proposed revisions prepared by (staff or name of consultant), the recommended findings on review and proposed revisions forwarded by the Planning Commission, and the public comments received, the (legislative body) finds and declares that the review and needed revisions have been prepared in conformance with applicable

law, including Chapter 36.70A RCW, Chapter 43.21C RCW, and (appropriate public participation and adoption process section(s) of jurisdiction's code).

Based on its review of the requirements of Chapter 36.70A RCW, the analysis and proposed revisions prepared by (staff or name of consultant), the recommended findings on review and proposed revisions forwarded by the Planning Commission, and the public comments received, the (legislative body) (accepted the analysis and proposed revisions) OR (modified the analysis and proposed revisions to more fully comply with Chapter 36.70A RCW) and hereby finds and declares that (name of jurisdiction's) natural resource land and critical areas designations and development regulations protecting critical areas as revised by this ordinance comply with the requirements of Chapter 36.70A RCW.

b. When No Revisions Are Needed

If a complete review of the critical areas and natural resource lands provisions reveals no need to revise those provisions, the jurisdiction should develop findings to affirm the review was completed, describe the basis for making that decision, and state that its existing provisions comply with the GMA (RCW 36.70A).

On (date), (staff or name of consultant) prepared an analysis of critical areas and natural resource designations and the development regulations that protect critical areas currently in effect in (name of jurisdiction) for consistency with the requirements of Chapter 36.70A RCW. Based on this analysis, (staff or name of consultant) found the designations and protections currently in effect comply with Chapter 36.70A RCW. On (date), (staff or name of consultant) forwarded its analysis and findings to the (name of jurisdiction) Planning Commission.

The (name of jurisdiction) Planning Commission reviewed the analysis and findings prepared by (staff or name of consultant) and held a public hearing on (date of hearing) to receive public comments on the analysis and findings. Based on its review of the requirements of Chapter 36.70A RCW, the analysis and findings prepared by (staff or name of consultant), and the public comments received, the Planning Commission accepted the analysis and forwarded recommended findings on review to the (legislative body) on (date).

The (legislative body) held a public hearing on (date of hearing) to receive public comments on the recommended findings on review.

Based on its review of the requirements of Chapter 36.70A RCW, the analysis and findings prepared by (staff or name of consultant), the recommended findings on review forwarded by the Planning Commission, and the public comments received, the (legislative body) finds and declares that the review and findings have been prepared in conformance with applicable law, including Chapter 36.70A RCW, Chapter 43.21C RCW, and (appropriate public participation and adoption process section(s) of jurisdiction's code).

Based on its review of the requirements of Chapter 36.70A RCW, the analysis and findings prepared by (staff or name of consultant), the recommended findings on review forwarded by the Planning Commission, and the public comments received, the (legislative body) hereby finds and declares that the

natural resource land and critical areas designations and development regulations protecting critical areas currently in effect in (name of jurisdiction) comply with the requirements of Chapter 36.70A RCW.

Review and Revision of Comprehensive Plans and Development Regulations Required (Jurisdictions Planning Under RCW 36.70A.040):

Counties and cities required to plan under RCW 36.70A.040 must review, and revise if necessary, their entire comprehensive plan and development regulations. These cities and counties should affirm this status in their findings.

(Name of jurisdiction) is required to plan under RCW 36.70A.040.

Every seven years, RCW 36.70A.130(1) requires (name of jurisdiction) to take legislative action to review and, if needed, revise its comprehensive plan and development regulations, including its policies and regulations designating and conserving natural resource lands and designating and protecting critical areas to comply with the requirements in Chapter 36.70A RCW.

Under the schedule established in RCW 36.70A.130(4), the deadline for (name of jurisdiction) to comply with the update required by RCW 36.70A.130(1) is (December 1, 20__).

a. When Revisions Are Needed

If a complete review of the comprehensive plan and development regulations reveals a need for revisions, the jurisdiction should develop findings to affirm the review was completed, describe the process used to complete the review and revisions, and state that its revised plan and regulations comply with the GMA (RCW 36.70A).

On (date), (staff or name of consultant) prepared an analysis of the comprehensive plan and development regulations currently in effect in (name of jurisdiction) for consistency with the requirements of Chapter 36.70A RCW. Based on this analysis, (staff or name of consultant) prepared proposed revisions it concluded are needed to comply with Chapter 36.70A RCW. On (date), (staff or name of consultant) forwarded its analysis and proposed revisions to the (name of jurisdiction) Planning Commission.

The (name of jurisdiction) Planning Commission reviewed the analysis and proposed revisions prepared by (staff or name of consultant) and held a public hearing on (date of hearing) to receive public comments on the analysis and proposed revisions. Based on its review of the requirements of Chapter 36.70A RCW, the analysis and proposed revisions prepared by (staff or name of consultant), and the public comments received, the Planning Commission (accepted the analysis and proposed revisions) OR (modified the analysis and proposed revisions to more fully comply with Chapter 36.70A RCW) and forwarded recommended findings on review and proposed revisions to the (legislative body) on (date).

The (legislative body) held a public hearing on (date of hearing) to receive public comments on the recommended findings on review and proposed revisions.

Based on its review of the requirements of Chapter 36.70A RCW, the analysis and proposed revisions prepared by (staff or name of consultant), the recommended findings on review and proposed revisions forwarded by the Planning Commission, and the public comments received, the (legislative body) finds and declares that the review and needed revisions have been prepared in conformance with applicable law, including Chapter 36.70A RCW, Chapter 43.21C RCW, and (appropriate public participation and adoption process section(s) of jurisdiction's code, and the jurisdiction's charter if appropriate).

Based on its review of the requirements of Chapter 36.70A RCW, the analysis and proposed revisions prepared by (staff or name of consultant), the recommended findings on review and proposed revisions forwarded by the Planning Commission, and the public comments received, the (legislative body) (accepted the analysis and proposed revisions) OR (modified the analysis and proposed revisions to more fully comply with Chapter 36.70A RCW) and hereby finds and declares that (name of jurisdiction's) comprehensive plan and development regulations as revised by this ordinance comply with the requirements of Chapter 36.70A RCW.

b. When No Revisions Are Needed

If a complete review of the comprehensive plan and development regulations reveals no need for revisions, the jurisdiction should develop findings to affirm the review was completed, describe the basis for making that decision, and state that its existing plan and regulations comply with the GMA (RCW 36.70A).

On (date), (staff or name of consultant) prepared an analysis of the comprehensive plan and development regulations currently in effect in (name of jurisdiction) for consistency with the requirements of Chapter 36.70A RCW. Based on this analysis, (staff or name of consultant) found the comprehensive plan and development regulations currently in effect comply with Chapter 36.70A RCW. On (date), (staff or name of consultant) forwarded its analysis and findings to the (name of jurisdiction) Planning Commission.

The (name of jurisdiction) Planning Commission reviewed the analysis and findings prepared by (staff or name of consultant) and held a public hearing on (date of hearing) to receive public comments on the analysis and findings. Based on its review of the requirements of Chapter 36.70A RCW, the analysis and findings prepared by (staff or name of consultant), and the public comments received, the Planning Commission accepted the analysis and forwarded recommended findings on review to the (legislative body) on (date).

The (legislative body) held a public hearing on (date of hearing) to receive public comments on the recommended findings on review.

Based on its review of the requirements of Chapter 36.70A RCW, the analysis and findings prepared by (staff or name of consultant), the recommended findings on review forwarded by the Planning Commission, and the public comments received, the (legislative body) finds and declares that the review and findings have been prepared in conformance with applicable law, including Chapter 36.70A RCW, Chapter 43.21C RCW, and (appropriate public participation and adoption process section(s) of jurisdiction's code, and the jurisdiction's charter if appropriate).

Based on its review of the requirements of Chapter 36.70A RCW, the analysis and findings prepared by (staff or name of consultant), the recommended findings on review forwarded by the Planning Commission, and the public comments received, the (legislative body) hereby finds and declares that the comprehensive plan and development regulations currently in effect in (name of jurisdiction) comply with the requirements of Chapter 36.70A RCW.

Buildable Lands Evaluation:

RCW 36.70A.215 requires certain counties, and the cities within them, to establish and carry out a review and evaluation program (aka, buildable lands evaluation). Currently, these counties are King, Pierce, Snohomish, Thurston, Kitsap, and Clark. Buildable lands jurisdictions were required to complete their first evaluation reports by September 1, 2002.

a. When Reasonable Measures Needed

If its buildable lands evaluation report demonstrated an inconsistency between the adopted comprehensive plan policies and the actual growth patterns, the county or city must adopt and implement measures that are reasonably likely to increase consistency over the next five years (aka, reasonable measures) [see RCW 36.70A.215(4)]. The adoption of these measures should be included in findings of the jurisdiction's final GMA update legislative action to affirm complete consistency with the GMA.

(Name of jurisdiction) adopted/accepted its review and evaluation report in accordance with RCW 36.70A.215 on (date). The (legislative body) has reviewed that report and concluded that it identified insufficient capacity to accommodate projected growth and/or inconsistencies between adopted comprehensive plan policies and the actual growth patterns since adoption of the comprehensive plan.

As required in RCW 36.70A.215(4), the (legislative body) has adopted (list applicable ordinance or resolution numbers) as measures reasonably calculated to address the insufficient capacity and/or inconsistencies identified in the review and evaluation report.

b. When No Reasonable Measures Needed

If the jurisdiction's buildable lands evaluation report did not demonstrate the need for reasonable measures to be adopted, a finding explicitly stating that fact should be included in the jurisdiction's final GMA update legislative action to affirm complete consistency with the GMA.

(Name of jurisdiction) adopted/accepted its review and evaluation report in accordance with RCW 36.70A.215 on (date). The (legislative body) has reviewed that report and concluded that sufficient capacity exists to accommodate projected growth and that no inconsistencies exist between adopted comprehensive plan policies and the actual growth patterns since adoption of the comprehensive plan.

When Review and Update Are Adopted in Phases (Even If Over Several Years):

For many jurisdictions, the needed revisions identified by a review of the comprehensive plan and development regulations were completed in several phases. In some cases, each phase of revisions was adopted with a separate ordinance or resolution. For these jurisdictions to ensure full compliance with RCW 36.70A.130, a final legislative action should be taken that includes findings listing all of the previous ordinances or resolutions that adopted phases of the update, and states that the jurisdiction's completely revised plan and regulations comply with the GMA (RCW 36.70A).

(Name of jurisdiction) is required to plan under RCW 36.70A.040.

RCW 36.70A.130(1) requires (name of jurisdiction) to take legislative action to review and, if needed, revise its comprehensive plan and development regulations, including its policies and regulations designating and conserving natural resource lands and designating and protecting critical areas to comply with the requirements in Chapter 36.70A RCW.

Under the schedule established in RCW 36.70A.130(4), the deadline for (name of jurisdiction) to comply with the update required by RCW 36.70A.130(1) is (December 1, 20__).

On (date), the (legislative body) of (name of jurisdiction) reviewed its comprehensive plan and development regulations and determined (in ordinance or resolution number) that revisions were needed to comply with Chapter 36.70A RCW.

As required in RCW 36.70A.130, (name of jurisdiction) adopted the following revisions to comply with Chapter 36.70A RCW: (list ordinances and dates of adoption).

Based on its review of the requirements of Chapter 36.70A RCW and of the ordinances adopted to meet the requirement of RCW 36.70A.130, the (legislative body) hereby finds and declares that (name of jurisdiction's) comprehensive plan and development regulations, as revised by the ordinances listed above, comply with the requirements of Chapter 36.70A RCW, and that (name of jurisdiction) has complied with the requirements of RCW 36.70A.130.